IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No. 313 of 1998

For Approval and Signature:

HON'BLE MR JUSTICE KS JHAVERI

==========

1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the civil judge ?

==========

G S R T C - Petitioner(s)

Versus

ST KARAMCHARI UNION - Respondent(s)

==========

Appearance :

MR HS MUNSHAW for Petitioner No(s).: 1.

MR JS BRAHMBHATT for Respondent No(s).: 1.

==========

CORAM : HON'BLE MR JUSTICE KS JHAVERI

Date : 05/08/2005

ORAL JUDGMENT

.

1.0 The petitioner Corporation has challenged the award dated 27.06.1997 passed by the Industrial Tribunal,

Baroda in Reference IT No. 207 of 1990, whereby the said reference was allowed.

2.0 The brief facts of the case are that the respondent herein was working as a Conductor with the petitioner Corporation. On 07.09.1985 while the respondent was on duty, the bus was checked by the Checking Squad of the petitioner and the Squad found certain irregularities in the issuance of tickets. Therefore, charge-sheet was issued pursuant to which departmental inquiry was held against the respondent. Since the charges leveled against the respondent were proved, he was dismissed from service w.e.f. 27th June, 1986.

2.1 Against the said order, the respondent approached the First Appellate Authority of the petitioner who rejected the Appeal vide order dated 30.10.1986. Thereafter, Second Appeal was preferred by the respondent, whereby the order of dismissal was substituted by imposing a penalty of reduction of salary by two stages and the intervening period was to be treated as leave without pay vide order dated 27.08.1987.

2.2 Against the said order, the respondent approached

the Tribunal by way of a reference being Reference IT No. 207 of 1990, whereby the penalty of reduction of salary by two stages was quashed and the rest of the part of the order of the Second Appellate Authority was confirmed. By way of this petition, the petitioner has challenged the said award of the Labour Court.

3.0 I have heard learned counsel for the parties and perused the documents placed on record. The charges leveled against the respondent were proved in the departmental inquiry held against him. Considering the fact that the Second Appellate Authority of the petitioner Corporation has substituted the order of dismissal by imposing a penalty of reduction of salary by two stages, I am of the opinion that the Tribunal ought not to have interfered with the penalty imposed by the Second Appellate Authority. The Second Appellate Authority has rightly substituted the order of dismissal since the respondent was proved guilty of the charges of financial irregularities and his past conduct was also not that much bad. Hence, the impugned award of the Labour Court is illegal and perverse and deserves to be quashed and set aside.

4.0 For the foregoing reasons, this petition is allowed. The impugned award dated 27.06.1997 passed by the Industrial Tribunal, Baroda in Reference IT No. 207 of 1990 is quashed and set aside. The order dated 27.08.1987 passed by the Second Appellate Authority of the petitioner Corporation is confirmed. Rule is discharged with no order as to costs.

(K. S. JHAVERI, J.)

pravin/ *